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09/863,352	05/24/2001	Masaru Sugano	010661	1126
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/863,352

**Applicant(s)**

SUGANO ET AL.

**Examiner**

FARZANA E. HOSSAIN

**Art Unit**

2424

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10, 12-14, 16-19, 21-23 and 25-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 10, 12-14, 16-19, 21-23, 25-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/2008 has been entered.

### ***Response to Amendment***

2. This office action is in response to communications filed on 12/18/2008. Claims 1-9, 11, 15, 20 and 24 are cancelled. Claims 10, 12-14, 16-19, and 21-23, and 25-35 have been previously amended. Claims 36-57 are new.

3. Claim 19 has a header of "Currently Amended." However, there are no changes to the claim.

### ***Response to Arguments***

4. Applicant's arguments filed 12/18/2008 have been fully considered but they are not persuasive.

Regarding the comments made to the Advisory Action, the applicant argues that some passages of the comments are difficult to understand; due to their being grammatically incorrect run-on sentences (Pages 16-17). Examples were provided including:

"Gagnon may not meet the exact example of the applicant's invention, nevertheless Gagnon discloses that a user can go transition between a program and the slide as the slide is still being displayed when the user selects a program which is two opposite directions one of a slide to another program or back to the same program (Figure 2A, Column 3, lines 13-21). Therefore, this is not unidirectional transitions.

Therefore, the known elements of selection of programs via a slide in EPG with no change to the Terasawa or Gagnon inventions would yield predictable results to modify Terasawa to include to the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components (Column 20, lines 34-67, Column 21, lines 1-5) as taught by Gagnon for a more aesthetically pleasing user interface." (Page 16)

In response to the comments, the examiner responded to the following applicant's including: Gagnon's invention discloses slide components as channel data and that Terasawa teaches a slide comprising a segment (Page 16 – response filed 11/20/2008). The applicant argues that it is improper to combine Terasawa and Gagnon because the slide of Terasawa is a series of still frames and "the so called slide of Gagnon is irrelevant to the pending claims, since it does not disclose a "slide" as defined by the claims" (Pages 16-17 – response filed 11/20/2008). The applicant argues the slide of Gagnon is not a series of segment programs and therefore is irrelevant (Page 17 – response filed 11/20/2008). The applicant also states that the KSR contain no reference to the claim language or the cited art (Page 18 – response filed 11/20/2008).

The examiner would like to clarify the previous comments and hopes that the response is no longer confusing to the applicant. The Terasawa reference is the base reference. The Terasawa reference discloses the limitations of a slide with slide components of original programs, wherein the slide components are a reduced temporal

segment (Figure 4, Figure 5, Column 6, lines 23-34, Figure 36, Figure 40, Column 9, line 15). Gagnon discloses a slide with slide components (Figure 2a, Column 20, lines 34-57, Column 21, lines 1-5, Column 23, lines 36-41). The Gagnon invention is not the applicant's invention as discussed by the applicant in previous interviews and the specification. However, the combination of Terasawa and Gagnon meets the limitations of claims as disclosed.

In response to the argument that Gagnon teaches a series of unidirectional still frame to program transitions; Gagnon discloses that a user can transition between a program and the slide as the slide is still being displayed when the user selects a program and allows transitions in two opposite directions, one of which is selecting from the slide to another program and using the slide to return to the first program (Figure 2A, Column 3, lines 13-21). Terasawa discloses a user can select a program on the slide (Figure 4). Therefore, this interpretation of the claims limitations as disclosed by Gagnon is not a series of unidirectional transitions as argued by the applicant. The examiner hopes this statement clarifies the bidirectional transition claim limitation in the independent claims and the response to arguments that the applicant found confusing.

In response to the applicant's KSR argument, the KSR Court found that the claim would have been obvious in the prior art and one skilled in the art could have been combined as claimed by known methods with no change in their respective functions, and the combination would have yielded predicated results to one of ordinary skill in the art at the time of the invention.

Therefore, the known methods for the selection of programs via a slide found within an EPG with no change to the Terasawa or Gagnon inventions in allowing the selection of programs via a slide would yield predictable results. The combination is known to one of ordinary skill in the art to modify Terasawa to include to the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components (Column 20, lines 34-67, Column 21, lines 1-5) as taught by Gagnon for a more aesthetically pleasing user interface.

The applicant and the examiner have discussed on numerous occasions the differences between the applicant's invention and the references. The examiner understands that the applicant disagrees with the rejection. The examiner also understands that the applicant does not think that these references meet the limitations. However, the examiner respectfully disagrees with the applicant's arguments. The prior art rejection meets the limitations of the claims using the broadest reasonable interpretation of the disclosed claims. The interpretation includes an EPG using segments on a bar or slide. Both references include a slide and are related to an EPG. These references are analogous and can be combined.

The applicant repeats arguments about all the limitations including bidirectional transitions (Page 17). The applicant makes spurious arguments as he did in the final rejection and the interview. The examiner has to the best of her ability tried to explain her rejection each time. The examiner has stated several times that the combination meets the limitation. Therefore, the disagreement includes both of the following

responses the applicant wants the examiner to choose: a) disagreeing with the applicant's characterization of the combination and/or b) the Applicant's position as to whether the combination would include a bidirectional transition. The examiner answered all of these arguments previously and invites the applicant to look at previous response to arguments. The examiner has reviewed the arguments and the claim limitations and after careful consideration finds the limitations are met by the prior art.

5. Regarding Claims 28 and 29, the applicant argues that the second clause of the claim limitation are not disclosed (Page 18). The applicant argues that Terasawa does not disclose the limitations particular the original program to the beginning of the next slide component (Page 19).

In response to the applicant, based on the claim limitations, Terasawa discloses the temporal description allows for a transition from each slide component to a beginning of each corresponding original audio/video program of which each slide component is a reduced temporal segment (Figure 4) as it is known in the art if all programs start at 7:00, then a selection of a program at 7:00 from the slide component will transition to the beginning of each corresponding audio video program for the benefit of a user watching a program from the beginning.

The second clause or limitaiton is temporal description allows for a transition from each original audio/video program to a beginning of each slide compent which is a reduced temporal segment of each sequential next original audio/video program. It is well known in the art that after a program (for instance the 7:00 program) is viewed

(Figure 8), the program will be displayed and then the next program will be displayed on the slide. Gagnon discloses that the slide remains visible while watching the selected program (Column 20, lines 34-67, Column 21, lines 1-5, Figure 2A, Figure 2B).

Therefore, temporal description allows for a transition from each original audio/video program to a beginning of each slide component or reduced frame of the Terasawa invention that is sequentially next to the originally selected original audio/video program as the Gagnon reference discloses a slide remaining visible.

6. Applicant's arguments filed 12/18/2008 have been fully considered but they are not persuasive.

Regarding new claims, the applicant argues that the still frames lack audio (Pages 22-23).

The examiner is reading that a program can be original audio program including a music program. Gagnon also discloses audio programming (Column 23, lines 36-41). The limitation requires a reduced temporal segment corresponding to an audio program. The still frame of a music program would still meet the limitation of a reduced temporal segment. See rejection below.

#### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.



8. Claims 10, 12-14, 16-19, 21-23 and 25-57 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10, 12-14, 16-19, 21-23 and 25-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasawa et al (US 6,147,714 and hereafter referred to as "Terasawa") in view of Gagnon et al (US 6,522,342 and hereafter referred to as "Gagnon").

Regarding claims 10 and 19, Terasawa discloses a method of describing summary data of at least one of audio data, video data and audiovisual data (hereinafter audio/video) (Figure 4), the method comprising:

Identifying multiple compressed or uncompressed original audio/video programs (Figure 4);

Identifying one or more slide components which are each a reduced temporal segment or single frames (Figure 4, Figure 36, Figure 40) from a corresponding one the multiple compressed or uncompressed audio/video contents programs with EPG information and the title bar (Figure 4, Figure 5);

Forming an audio/video slide comprising one or more slide components via the data stream (Figure 4, Figure 5, Figure 36, Figure 40, Column 6, lines 23-34);

Providing a textual description of the slide components as an external file such that the slide components are described sequentially (Figure 4, Figure 5, Figure 7, Figure 36, Figure 40, Column 6, lines 23-34, Column 12, lines 64-67, Column 15, lines 35-39); wherein the description of the slide components includes a temporal description temporally describing each slide component including the time of the program and its corresponding original audio/video program and allowing for a transition between the multiple original audio/video programs and the slide components or the title bar includes information about the program and transition to more information of the programs and selecting the slide bar using the remote control (Figure 4, Column 6, lines 23-34, Figures 5-7),

Displaying the textual description of the slide components through the title bar or the EPG (Figure 5, Figure 7). Microsoft Press 3<sup>rd</sup> edition Computer Dictionary defines file as: a complete, named collection of information, such as program, asset of data used by a program or a user created document, a file is a basic unit of storage that enables a computer to distinguish one set of information from another.

Terasawa is silent on wherein the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components. In analogous art, Gagnon discloses the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components or between each slide component a channel and video on the slider referencing multiple audio/video programs and the description to select a program from the slider or displaying the program and the viewing the slider to choose another program (Figure 2a, Figure 2b, Column 20, lines 34-67, Column 21, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Terasawa to the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components (Column 20, lines 34-67, Column 21, lines 1-5) as taught by Gagnon in order to for the user to move more quickly and efficiently through the guide and for the user to more than one way to select a program to view (Figure 2a, Column 3, lines 13-21) as disclosed by Gagnon.

Regarding claims 36 and 43, Terasawa discloses a method of describing summary data of at least one of audio data (hereinafter audio/video) (Figure 4, Column 19, line 15), the method comprising:

Identifying multiple compressed or uncompressed original audio programs including music programs (Figure 4, Column 19, line 15);

Identifying one or more slide components which are each a reduced temporal segment or single frames (Figure 4, Figure 36, Figure 40) from a corresponding one the multiple compressed or uncompressed audio or music programs with EPG information and the title bar (Figure 4, Figure 5);

Forming an audio slide comprising one or more slide components via the data stream (Figure 4, Figure 5, Figure 36, Figure 40, Column 6, lines 23-34);

Providing a textual description of the slide components as an external file such that the slide components are described sequentially (Figure 4, Figure 5, Figure 7, Figure 36, Figure 40, Column 6, lines 23-34, Column 12, lines 64-67, Column 15, lines 35-39); wherein the description of the slide components includes a temporal description temporally describing each slide component including the time of the program and its corresponding original audio program and allowing for a transition between the multiple original audio programs and the slide components or the title bar includes information about the program and transition to more information of the programs and selecting the slide bar using the remote control (Figure 4, Column 6, lines 23-34, Figures 5-7),

Displaying the textual description of the slide components through the title bar or the EPG (Figure 5, Figure 7). Microsoft Press 3<sup>rd</sup> edition Computer Dictionary defines

file as: a compete, named collection of information, such as program, asset of data used by a program or a user created document, a file is a basic unit of storage that enables a computer to distinguish one set of information form another.

Terasawa is silent on wherein the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio programs and the slide components. In analogous art, Gagnon discloses an audio slide with slide components (Column 20, lines 34-36, Column 23, lines 36-41), the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio programs and the slide components or between each slide component a channel and audio on the slider referencing multiple audio programs and the description to select a program from the slider or displaying the program and the viewing the slider to choose another program (Figure 2a, Figure 2b, Column 23, lines 36-40, Column 20, lines 34-67, Column 21, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Terasawa to include the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components (Column 20, lines 34-67, Column 21, lines 1-5) as taught by Gagnon in order to for the user to move more quickly and efficiently through the guide and for the user to more than one way to select a program to view (Figure 2a, Column 3, lines 13-21) as disclosed by Gagnon.

Regarding Claims 12, 21, 37 and 44, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses the slide components of the audio/video slide are reduced temporal segments included in the original audio/video programs (Figure 4, Figure 5, Figure 7, Figure 39, S73). Microsoft Press 3<sup>rd</sup> edition Computer Dictionary defines file as: a complete, named collection of information, such as program, asset of data used by a program or a user created document, a file is a basic unit of storage that enables a computer to distinguish one set of information from another. Therefore, Terasawa discloses the reduced temporal segment or frame is a separate file as each segment is for one program, and a set of files is described sequentially or each segment is a separate file that is described sequentially from the title bar (Figure 4, Figure 5, Figure 7, Figure 39, S73, Figure 36).

Regarding Claims 13, 22, 38 and 45, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses wherein the slide components of the audio/video slide are reduced temporal segments included in the original audio/video programs, a set of segments is integrated as one composite file or one segment or frame is one file (Figure 39, S73, Figure 23, 35a), and the individual segments of the composite file are described sequentially in title bar (Figure 4, Figure 5). See rejection of Claims 12 and 21.

Regarding Claims 14, 23, 39 and 46, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses the textual description about the transition between the original programs and the slide components further includes a description about an identifier of the original programs to

which the slide components correspond via the title bar (Figure 4, Figure 5, Figure 7, Figure 36, Figure 40, Column 19, line 15). Gagnon discloses the textual description about the bidirectional transition between the original programs and the slide components via the slider or tuning bar or displaying the program and the viewing the slider to choose another program (Figure 2a, Figure 2b, Column 20, lines 34-67, Column 21, lines 1-5, Column 23, lines 36-41).

Regarding Claims 16, 25, 40 and 47, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses it is possible to transfer from playback of the audio/video slide to playback of the original audio/video programs relating to the slide components of the audio/video slide (Column 6, lines 6-13, Column 16, lines 14-25), and it is also possible to transfer reversely from playback of original audio/video programs to playback of the audio/video slide (Column 6, lines 6-13, Column 16, lines 14-25).

Regarding Claims 17, 26, 41 and 48, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses it is possible to display attribute data describing the corresponding original audio/video programs by using description data of audio/video slide components during playback of an audio/video slide or title bar can be displayed during playback (Figure 3, Figure 4, Figure 5).

Regarding Claims 18, 27, 42 and 49, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses that corresponding original audio/video programs is played by using description data of the

audio/video slide components during playback of an audio/video slide (Column 6, lines 6-13, 23-34, Column 19, line 15, Column 16, lines 14-25, Figure 4, Figure 36, Figure 39, Figure 40).

Regarding Claims 28, 29, 50 and 51, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses the temporal description allows for a transition from each slide component to a beginning of each corresponding original audio/video program of which each slide component is a reduced temporal segment (Figure 4, Column 9, line 15, Column 6, lines 6-13, 23-34) as it is known in the art if all programs start at 7:00 then a selection of a program at 7:00 from the slide component will transition to the beginning of each corresponding audio video program for the benefit of a user watching a program from the beginning. Terasawa discloses wherein the temporal description including the time of the program and its corresponding original audio/video program (Figure 4, Figures 5-7) allows for a transition from each original audio/video program to a beginning of each slide component which is a reduced temporal segment of each sequentially next original audio/video program or after the program selected is displayed there is a reduced temporal segment in the slide for each sequentially next original audio/video program for instance after a 7:00 program is selected for viewing such as World News (Figure 8), after the program is displayed World Sport will be the next reduced temporal segment (Figure 4, Figure 8, Figure 35). Gagnon discloses the slider remains in display while watching the selected program (Column 20, lines 34-67, Column 21, lines 1-5, Figure



2A, Figure 2B). Gagnon discloses audio programming slide components on the slide (Column 23, lines 36-41, Column 20, 34-36).

Regarding Claims 30, 32, 52 and 54, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses wherein slide components are sequentially playable or reduced temporal segments that are sequential order can be displayed on the data stream (Figure 4, Column 19, lines 44-56, Figure 35, Figure 40).

Regarding Claims 31, 33, 53 and 55, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses wherein slide components are non-sequentially playable or reduced temporal segments that are non-sequential order can be displayed on the data stream as programs out of order in time or channel can be scrolled through and displayed at the same time (Figure 36, Figure 4, Column 19, lines 44-56).

Regarding Claims 34, 35, 56 and 57, Terasawa and Gagnon disclose all the limitations of Claims 10, 19, 36 and 43 respectively. Terasawa discloses the slide comprises at least one segment or single frames from each of the multiple compressed or uncompressed original audio/video programs (Figure 4, Figure 36, Figure 4).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Glaser et al (US 7,464,175 and hereafter referred to as "Glaser")

discloses audio on demand system with a menu providing audio clips and audio clips can be selected via scrolling (Column 26, lines 35-46, Figure 8A).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA E. HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday 7:30 am to 2:30 pm, Tuesday, Thursday and Friday 7:30 am to 4:30 pm and Wednesday 7:30 am to 12:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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FEH  
February 12, 2009